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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1717 OF 2016

Virendra Abhay Dubey and Ors.

..Petitioners.

V/s.

The State of Maharashtra and Anr.

..Respondents.

Mr.Jai Prakash Mishra for the petitioners.

Mrs.S.V.Sonawane, APP for the respondent-State.

Mr.Sujit Pathak for respondent No.2.

**CORAM : NARESH H.PATIL AND
A.M.BADAR, JJ.**

DATED : 5TH MAY, 2016

P.C. :-

1. By this petition, petitioners / accused are praying for quashing and setting aside the charge-sheet and the resultant Criminal Case No.1700105/PW/2015 pending on the file of 17th Metropolitan Magistrate, Borivali, Mumbai for the offences punishable under sections 498A, 406, 504, 506 read with 34 of the Indian Penal Code at the instance of respondent No.2 / informant Mrs.Priya Virendra Dubey.

2. Heard learned counsel appearing for the petitioners / accused as well as learned counsel appearing for respondent

No.2 / informant Mrs. Priya Virendra Dubey. Both of them have unanimously submitted that the parties being husband and wife have settled their matrimonial dispute amicably outside the Court and that respondent No.2 / informant is not interested in continuing the prosecution against the petitioner.

3. We have heard learned APP appearing for the State.

4. Respondent No.2 / informant Priya Virendra Dubey is personally present before the Court. She is identified by her counsel. She stated that she does not want to prosecute F.I.R. lodged by her. She has filed an affidavit dated 5th May, 2016. Upon being asked, she submitted that she has amicably settled her matrimonial dispute with the petitioner in the Family Court, Bandra, Mumbai by filing a consent terms dated 16th October, 2015 and they have agreed mutually to separate. As per the said consent terms, petitioner No.1 has agreed to deposit a sum of Rs.4,00,000/- in the Family Court towards her maintenance. She, therefore, stated that she does not want to prosecute the criminal proceedings against petitioners.

5. We have carefully considered the submissions and

perused the F.I.R. lodged by respondent No.2 so also the charge-sheet. The parties have settled the matrimonial dispute amicably outside the Court and as such continuation of criminal case would certainly result in abuse of process of the Court. Chances of conviction in such a situation are too remote and continuation of prosecution would result in wastage of public time and money. No public law element is involved in this case. The petition, therefore, deserves to be allowed. Hence the following order:-

- (i) The petition is allowed;
- (ii) The F.I.R. bearing Crime No.231/2014 for the offences punishable under sections 498(A), 406, 504 and 506 read with 34 of the Indian Penal Code, 1860 registered against petitioners / accused with Samta Nagar police station, Mumbai at the instance of respondent No.2 / informant Mrs.Priya Virendra Dubey and resultant Criminal Case No.1700105/PW/15 pending on the file of 17th Metropolitan Magistrate Court, Borivali, Mumbai is hereby quashed and set aside.

(A.M. BADAR, J.)

(NARESH H.PATIL, J.)